ARTICLE 49.09, TEXAS CODE OF CRIMINAL PROCEDURE

9. Defendant's brief

Within thirty days after approval of the record by the court, or within such additional period as the court may in its discretion authorize, the defendant shall file with the clerk of the trial court his appellate brief. This brief shall set forth separately each ground of error of which defendant desires to complain on appeal and may set forth such arguments as he deems appropriate. Each ground of error shall briefly refer to that part of the ruling of the trial court, charge given to the jury, or charge refused, admission or rejection of evidence or other proceedings which are designated to be compalined of in such way as that the point of objection can be clearly identified and understood by the court. If the defendant includes in his brief arguments supporting a particular ground of error they shall be construed with it in determining what point of objection is sought to be presented by such ground of error; and if the court, upon consideration of such ground of error in the light of arguments made in support thereof in the brief, can identify and understand such point of objection the same shall be reviewed notwithstanding any generality, vagueness or other technical defect that may exist in the language employed to set forth such ground of error.

RULES OF THE COURT OF CRIMINAL APPEALS

Rule 9. Motions for rehearing and leave to file, written argument; setting case for resubmision

Motions for rehearing may not be filed as a matter of right. Any party desiring a rehearing of any matter determined by the Court must, within fifteen days after the opinion is handed down, present to the Clerk a motion for rehearing, distinctly specifying the grounds relied on for a rehearing, accompanied with a motion for a leave to file, and such written argument in behalf of the motion as may be desired; and nine copies of all such papers shall be presented to the Clerk for distribution to the Judges and Commissioners of the Court. The party presenting the motion for leave to file shall certify that copies of the motion for leave to file, motion for a rehearing and argument, if any, have theretofore been delivered to the opposite party. The motion for leave to file shall be filed by the Clerk, and together with the motion for rehearing and written argument, if any, will be submitted for action of the Court. The Court may request the opposite party to submit a reply, and in that event the Clerk will so advise such party. If the Court concludes for any reason that a reply should not be requested, it will act upon the motion without giving prior notice to the opposite party. If as many as two members of the Court are of the tentative opinion that the motion for a rehearing should be granted in whole

or in part, the motion for leave to file will be granted, the motion for rehearing will be filed, and the case will be placed upon the docket and will be thereafter set for a resubmission to the Court. Otherwise, the motion for leave to file will be overruled, and the motion for a rehearing will not be filed. If the motion for a leave to file is ranted, the Clerk will give notice to all counsel of record of the filing of the motion for rehearing by mail, or give such other notice as may be ordered by the Court. Any motion for rehearing may be amended, with leave of the Court, any time before its final disposition. When a case is set for resubmission on motion for rehearing, the Clerk will give all counsel of record notice of such setting. However, when a case is set for resubmission on motion for rehearing, oral argument will be allowed only upon invitation from the Court upon the grounds specified by the Court, and ordinarily anyone so invited to present oral argument will be limited to fifteen minutes, with it being understood that the Court may, in its discretion, limit or extend the time for such oral argument.

CERTIFICATE OF SERVICE

I, Lonny Zwiener, Assistant Attorney General of Texas, do hereby certify that a copy of the above and foregoing Brief in Opposition has been deposited in the United States mail, first class, certified and postage prepaid, on this the ___ day of February, 1974, to the following address: Mr. Marvin O. Teague, Attorney and Counselor at Law, 999 State National Building, 412 Main, Houston, Texas 77002.

LONNY ZWIENER
Assistant Attorney General